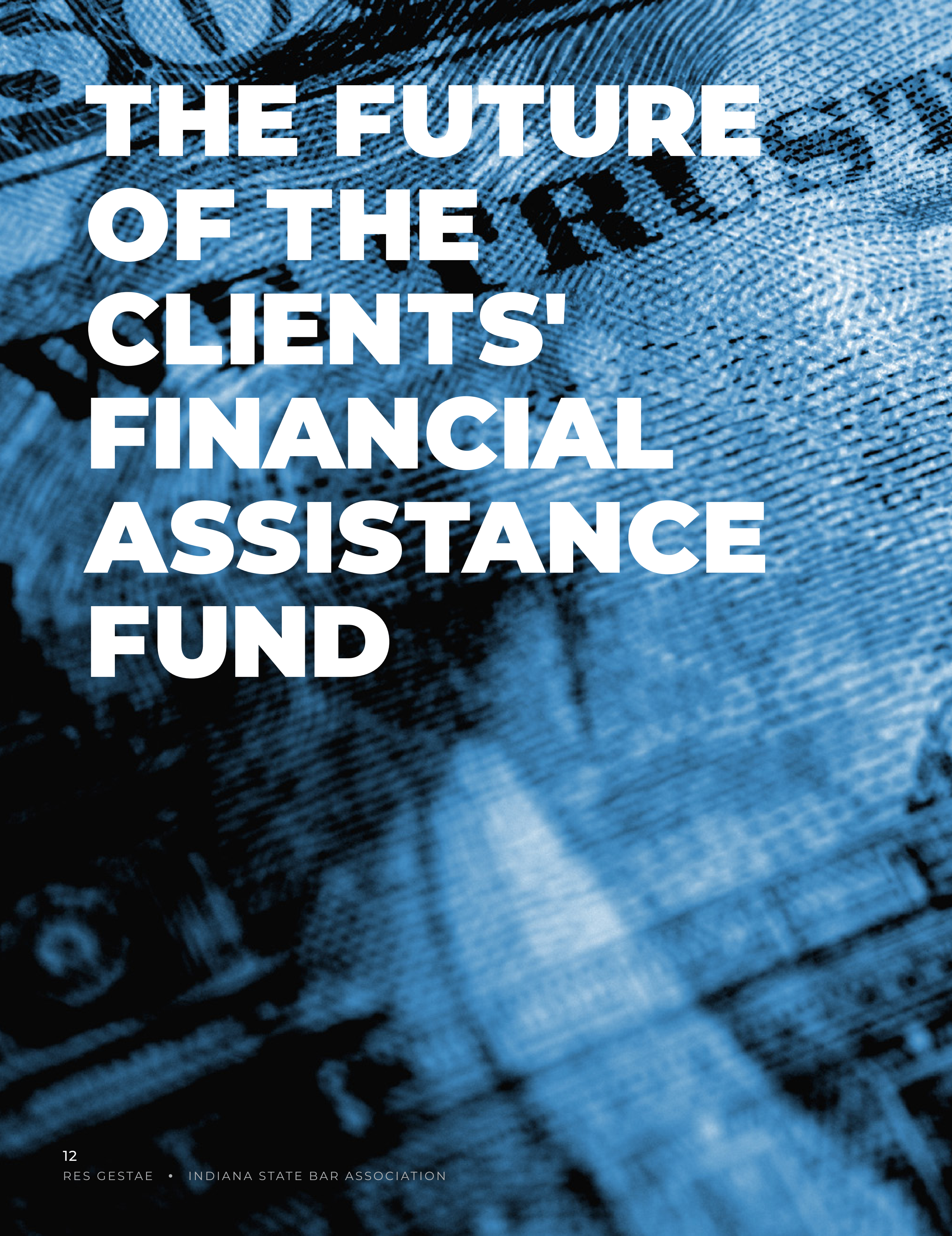
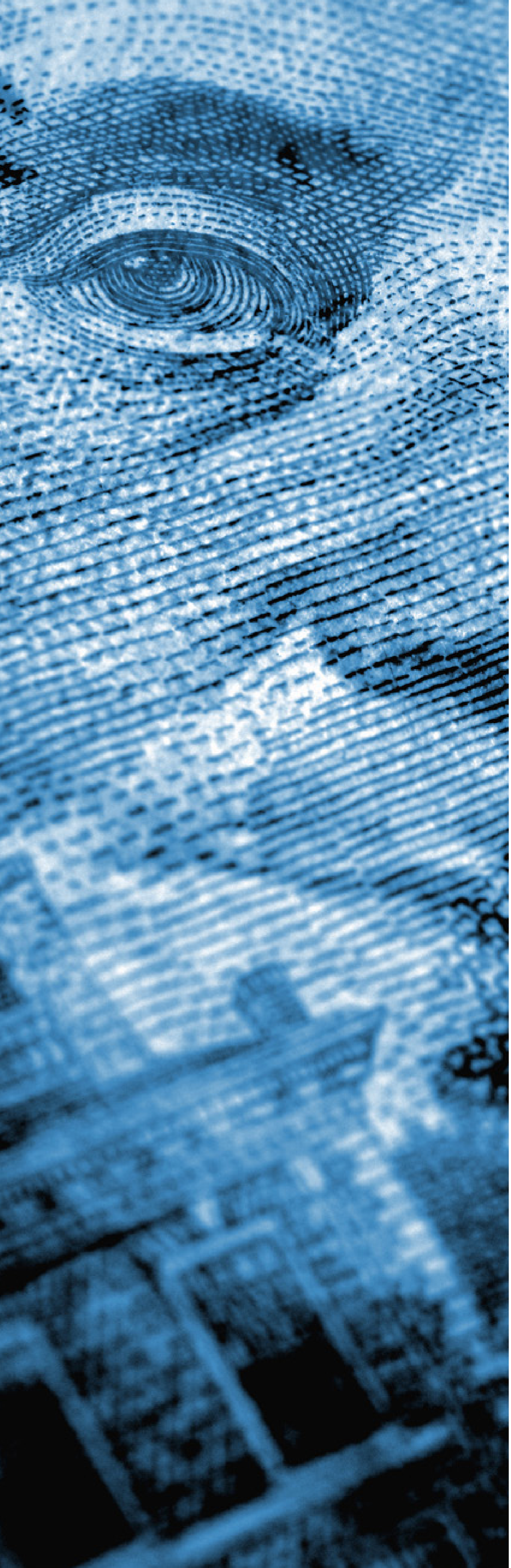
THE FUTURE OF THE CLIENTS' FINANCIAL ASSISTANCE FUND





FEATURE

By ISBA Staff

For more than 60 years, the Indiana State Bar Association's Clients' Financial Assistance Fund (the Fund) has intended to work on rebuilding public trust in Indiana's legal profession. The Fund offers financial relief to individuals harmed by dishonest attorneys, trying to fulfill the "debt of honor which the profession owes to the public."

Now, the Board of Governors is asking members to consider whether the ISBA can better address that debt.

At its April 2026 meeting, the board voted to recommend that the House of Delegates sunset the Fund as an active ISBA program, using the remaining balance to support projects that better reflect the Fund's initial goals. The resolution will be presented for discussion and vote at the ISBA House of Delegates meeting on Thursday, September 24.

The recommendation follows a multi-year review of the Fund's sustainability, summarized below. Members are encouraged to review the Fund's history, share their perspectives, and serve as delegates at the September meeting.

THE CLIENTS' FINANCIAL ASSISTANCE FUND

In September 1961, the ISBA created the Fund to reimburse members of the public who suffered a monetary loss as the result of their attorney's dishonest actions. This effort followed a national trend and a recommendation by the American Bar Association to improve public goodwill toward the legal profession by promoting public confidence in the integrity, trustworthiness, and professionalism of attorneys.

The goal, as Telford Orbison, chair of the original ISBA committee on client protection funds, shared was to "show to the public that we…are keenly aware of the duties and responsibilities which we assume when we become lawyers and that we want to do what we can within our power to protect our professional integrity."

How the Fund Works

Two dollars from each attorney member's ISBA dues are allocated to the Fund each year. These, combined with net investment income, generate revenue for the Fund to offer as reimbursement for victimized clients.

CFAF Review Process

1	**Claimant submits initial application.**
2	**ISBA staff screens initial application to ensure it meets eligibility requirements. (See inbar.org/CFAF).**
3	**ISBA staff sends full application form to the claimant, including a request for all contracts, bills, and associated documents.**
4	**Claimant returns completed, notarized application.**
5	**Volunteer from the CFAF Committee reviews the application, investigates as needed, and makes a recommendation to approve or deny the claim.**
6	**The CFAF Committee discusses the volunteer's recommendation and findings, then votes to reject the claimant's request, accept, or accept with partial payment.**

The Fund only awards reimbursement to clients suffering monetary losses as the result of an Indiana attorney's intentional misconduct. This typically includes embezzlement, dishonesty, or refusals to return unearned fees—offenses that cannot be reclaimed through malpractice insurance or small claims court. It is usually a final recourse for applicants, who have reported the attorney to the Indiana Supreme Court's Disciplinary Commission, explored other ways of reclaiming their loss, or no longer have the financial means or knowledge to pursue other options. In July 2024, the board limited claim eligibility even further to include only clients harmed by ISBA members.

Once a claim has been submitted and screened, the Clients' Financial Assistance Fund Committee (CFAF Committee)—a dedicated group of core volunteers, many of whom have served for decades—investigates the applicant's claims. Volunteers read through lengthy applications, investigate past or pending court cases, and reach out to the parties involved to get more information. They then weigh all the circumstances, including the severity of hardship, available funds, the amount of work the attorney did complete, and the total number of claims associated with that attorney. They recommend a course of action to the full committee, which then votes to reject, accept, or accept with partial payment each eligible claim.

It's a careful and thorough process that strives to give back to clients harmed by the profession, who have no other option of recourse. However, the Fund's current model may limit its effectiveness.

CHALLENGES IN ADMINISTERING THE FUND

In 2023, the Board of Governors convened a Taskforce to assess whether the Fund, in its current form, met its intended purpose.

The Taskforce reviewed financial records, spoke with claimants, and researched how other states administer their client protection funds. In 2025, they presented their findings to the board: The Fund's mission is critical, but the current model raises questions about long-term sustainability and may minimize the Fund's ability to restore public confidence.

Financial Sustainability

The Fund's balance has fluctuated over time due to different claim payouts, market fluctuations, and administrative costs. But the overall

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trend is downwards. In fiscal year 1997, the Fund stood at $617,019.31. By 2025, the balance stood at $354,918.26.

For a more detailed look at the Fund's last five financial statements, see Table One.

Over the past five years, the total amount of annual claim payouts ranged from $11,000 to $45,000 (in years where payouts were made). Broader administrative support and staff time—including talking with potential claimants, screening applications, organizing committee meetings, etc.—are expensed from the ISBA's operating budget rather than the Fund itself, so they are not noted in Table One. However, administrative expenses can range from $14,000 (in years after the board limited payouts to victims of ISBA members) to $28,000 annually.

Current allocated membership dues generate approximately $14,000 annually for the Fund. Most of the Fund's long-term growth, therefore, depends on its investment performance. When the market performs well, the Fund's losses in claim payouts are mitigated—and in many years have led to a boost in the Fund's overall growth. When the market does not perform well, as in fiscal year 2021–22, investment losses exacerbate the overall downwards trend.

These trends put the long-term stability of the Fund into question. Without additional funding sources, operational changes, or further restrictions on payouts, the Fund will ultimately die on its own.

Limited Scope

The Fund only reimburses clients who are harmed by the intentional *dishonest* act of an Indiana attorney; and, as of 2024, only victims of active ISBA members.

Table One: Summary of the Fund, Last Six Years							
Fiscal Year	**Applications Received**	**Claims Approved**	**Total Claim Payout**	**Contributions (from Dues)**	**Net Investment Activity**	**Starting Balance**	**Ending Balance***
2024–25	12	4	$34,175	$14,296	$20,735.28	$354,061.98	$354,918.26
2023–24	23	4	$11,090	$18,525.32	$21,965.02	$324,661.64	$354,061.98
2022–23	28	7	$44,929.74	$14,430	$12,974.17	$342,256.58	$324,661.64
2021–22	15	1	($900)	$14,780	($30,963.13)	$357,567.39	$342,256.58
2020–21	15	2	$18,500	$14,604	$18,022.33	$343,105.06	$357,567.39
2019–20	22	7	$15,500	$15,093	$18,066.65	$325,253.66	$343,105.06

*Please note: The overall ending balance does not include administrative costs (including staff time, mailing, printing, etc.), which are expensed directly from ISBA's overall budget and averaged $14,000 in 2024-25 and $28,000 in years previous.

This automatically excludes a fair number of applicants who are seeking help with fee disputes or malpractice claims. Over the past five fiscal years, 93 applications have been submitted to the CFAF Committee for review. Only 18 were approved for payout.

There is value in giving individuals a venue to be heard and to make their complaints, even if their application doesn't make it past the initial screening. But the automatic rejection for individuals who don't understand the eligibility requirements, who have already faced maltreatment at the hands of an attorney, and who ultimately lack means to explore other forms of recourse can be frustrating. For some applicants who are denied or receive only a small percentage of their losses back, it only further breaks the trust the Fund seeks to rebuild in the first place.

The Fund also faces a catch-22 when it comes to promotion and public knowledge. In order to rebuild public trust, the Fund should reach as many individuals as possible. But the Fund has a finite balance at the end of the day—the more applications received; the more strain placed on staff, volunteers, and the Fund's overall balance. If too many applications are approved, it becomes more difficult for future claimants to receive payouts.

At the end of the day, the Fund and its volunteers are left to decide whether it's better in the long-term to make a smaller payout to a larger number of claimants or to give a smaller number of claimants the full payout they request.

Structural Challenges

Indiana is unique in that it is the only voluntary bar association that funds the state's client protection program. It relies on voluntary membership dues and investment income, which fluctuate from year to year.

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As the ABA's Model Rules for Lawyers' Funds for Client Protection note, "Voluntary contribution is the weakest funding method; it does not provide the Fund with broad-based and permanent income." Instead, the ABA recommends funding client protection programs through mandatory fee assessments. This is how all other U.S. jurisdictions fund their programs—through mandatory attorney licensure fees. And in many states, the judiciary or state regulatory authority oversees the funds' administration and allocations.

As part of its assessment, the Taskforce explored whether alternative funding or partnerships could sustain the Fund, including conversations with the Indiana Supreme Court. However, limited budgets and the desire to not raise attorney fees left no viable path forward at this time.

THE BOARD OF GOVERNOR'S RECOMMENDATION

In the Fall of 2025, following discussions with interested groups, review of the history and purpose of the Fund, and input

Read the Board of Governors' resolution.

Read the CFAF Committee's position statement.

"The House of Delegates will consider and vote on the board's resolution at the ISBA Annual Meeting in Indianapolis on September 24."

from other members, the taskforce recommended—and the Board of Governors supports—sunsetting the Fund as an active ISBA program.

In its place, the Board of Governors proposes allocating the remaining balance, approximately $350,000, to initiatives that:

- Protect members of the public from financial or other significant harm caused by attorney misconduct;
- Address attorney substance abuse, mental health conditions, and other root causes of misconduct;
- Expand access to legal services for unrepresented, underserved, and/or vulnerable members of the public;
- Improve public goodwill toward the legal profession; and/or
- Promote public confidence in the integrity, trustworthiness, and professionalism of Indiana attorneys.

These initiatives could include ideas like:

- Providing the remaining funds as a starter endowment should another entity or the court decide to take on administration of the Fund;
- Supporting ISBA's Pro Bono Committee or other legal clinics, helping them expand access to free legal aid for the clients most likely to be victimized by a dishonest attorney;
- Donating to the Indiana Judges & Lawyers Assistance Program, to address attorney misconduct at the source.

If the resolution is approved, the Board of Governors would oversee the allocation of the remaining funds and report back both the payments transferred and an explanation for each allocation. You can read the full resolution at inbar.org/CFAF-resolution.

ISBA's CFAF Committee respectfully disagrees with the resolution and recommends it be rejected. They encourage the ISBA to instead undertake targeted efforts to strengthen the Fund, including modest dues adjustments and/or enhanced voluntary contributions. You can read the CFAF Committee's full position statement at inbar.org/commentary-on-CFAF.

This is not a decision to be made lightly. The need for a strong, sustainable client protection system in Indiana remains; and if the House of Delegates votes to sunset the Fund, Indiana would be the only state without an active client protection program (which may only exacerbate the breakdown of public trust in legal systems that we're seeing across the nation today). However, under the current model, the Fund struggles to grow and is not sustainable long-term. Sunsetting the Fund might create an opportunity to redirect resources toward solutions that more consistently and meaningfully protect the public and strengthen trust in the profession.

WHAT'S NEXT

The House of Delegates will consider and vote on the board's resolution at the ISBA Annual Meeting in Indianapolis on September 24. As ISBA's legislative body, the House of Delegates represents members from across the state, with delegates allocated by county and ex officio members representing section leaders, past presidents, and other community partners.

You are encouraged to participate in this process by:

- Reviewing the full resolution at inbar.org/CFAF-resolution.
- Sharing your perspectives at inbar.org/commentary-on-CFAF.
- Attending and participating in the House of Delegates as a representative.

For information about serving as a delegate, visit inbar.org/about-HOD. Additional details about the Annual Meeting are available at inbar.org/AnnualMeeting.

The Fund reflects decades of meaningful work by dedicated volunteers. That work matters. It has always mattered. The question up for consideration now is how to pay back that "debt of honor" to the public in ways that are sustainable, effective, and capable of making a broad impact.